

To: Zaragoza, Larry[Zaragoza.Larry@epa.gov]
From: Morning Energy
Sent: Tue 8/11/2015 2:04:08 PM
Subject: POLITICO's Morning Energy, presented by Chevron: EPA aims to move updated mercury rule next spring — States eye trading for carbon rule compliance — Kasich remark highlights GOP nuance problem

By Alex Guillén

With help from Elana Schor, Darren Goode, Andrew Restuccia and Steven Shepard

EPA WANTS TO MOVE UPDATED MERCURY RULE NEXT SPRING: EPA isn't wasting any time moving toward issuing an updated version of the mercury rule that got tossed back to the agency in June by the Supreme Court. EPA told a federal court yesterday that it plans to ask for a remand that keeps the rule in place until EPA can issue a shiny new "appropriate and necessary" finding - this time considering costs, as per the high court - by April 15, 2016. EPA watchers know that's pretty quick for the agency to turn around, particularly since the court has not yet decided exactly how to proceed. But EPA says it can do it so quickly because, well, they already did it. EPA told the D.C. Circuit Court of Appeals that it already performed an 'exhaustive consideration of costs' during later stages of the rulemaking process. "The existence of those documents indicates that the Agency can meet an ambitious schedule on remand," EPA writes: <http://politico.pro/1N4TvoQ>

Lawsuit #2? "The Supreme Court explicitly declined to limit the EPA's discretion as to how to consider costs ... and the Agency has not yet determined how it will do so," EPA wrote. As Pros will remember, the court pointedly did not rule on whether EPA should be limited to counting the direct benefits of the mercury rule (several million dollars) or if it can also count the co-benefits from reductions of other pollutants like particulate matter (tens of billions of dollars).

The more immediate matter: That news was tucked away in an EPA filing urging the court against granting a request from power provider Tri-State Generation and Transmission Association for an exemption for an infrequently used Colorado facility for part of the rule limiting hydrochloric acid emissions. Neither the dilemma raised over the plant's continued operation or the Supreme Court's decision justifies such 'unusual relief,' EPA argues.

TRADING SPACES - STATES EYE TRADING FOR CARBON RULE COMPLIANCE: The Obama administration's push for carbon trading is finding potential converts in some unlikely places. While officials are still poring over the details of the rule, EPA's emphasis on trading is attracting significant attention. Officials in Minnesota and North Dakota, which is being asked to implement some of the steepest carbon dioxide cuts, have discussed setting up a trading program. Policymakers in New England, which has had a cap-and-trade program in place for six years, are fielding calls from around the country asking how they did it. And some power providers are exploring how plant operators could trade with each other directly even when their state governments do not establish formal programs. Your host has more: <http://politico.pro/1hv8Piv>

GINA, GINA, DANCE ALL NIGHT, GINA, GINA, FEEL ALL RIGHT: EPA chief Gina

McCarthy will do a victory lap today when she talks about the Clean Power Plan at the P Street headquarters of Resources for the Future. Fun fact: Anyone who says they've read the entire plan by now is either lying or a dedicated Clean Air Act lawyer (or both). Still, the conversation should be pretty lively. Watch live at 12:15 p.m. here: <http://www.rff.org/live/>

Today in new CPP documents: EPA has posted two new Clean Power Plan documents online, an updated 440-page report on state policies promoting renewable energy and efficiency: <http://1.usa.gov/1FSbE4B>. And a 'state goal visualizer' that includes a step-by-step walkthrough of how state goals were determined: <http://1.usa.gov/1MZ1R1W>

MORNING VIDEO - TALKING CARBON RULE WITH FERC'S MOELLER: POLITICO's Darren Samuelsohn sits down with FERC Commissioner Philip Moeller to discuss EPA's Clean Power Plan: <http://politi.co/1PhHvQ2>

HAPPY TUESDAY and welcome to Morning Energy. Your host is proud to report he will soon partner with Rock'n'Roll World magazine to go undercover at Camp Firewood - so long as he can pass for a 16-year-old. Send your news to aguillen@politico.com, and follow on Twitter [@alexguillen](https://twitter.com/alexguillen), [@Morning_Energy](https://twitter.com/Morning_Energy) and [@POLITICOPRO](https://twitter.com/POLITICOPRO).

**** A message from Chevron:** Congratulations to the winners of the first-ever US2020 STEM Mentoring Awards. Chevron is proud to be a Co-sponsor of the award, and to recognize the mentors who are helping cultivate the next generation of STEM professionals. See how Chevron supports America's future innovators: <http://tinyurl.com/nmd37qj> **

STEYER GROUP LAUNCHES AD PUSHING ENERGY INNOVATION: Tom Steyer's NextGen Climate Action group today launched a seven-figure ad campaign touting clean energy as a jobs creator. The 30-second spot, featuring kids talking about the creation of the light bulb and the moon landing (and the internet, sans any mention of Al Gore), will run in markets in Iowa, New Hampshire, Ohio and Washington, D.C. According to a source tracking ad buys, NextGen spent more than \$840,000 on the ads. The ad is the first in what NextGen says will be a series of spots in the group's campaign to get candidates to support the U.S. getting 50 percent of its power from clean sources by 2030. Watch: <https://youtu.be/wBIYLbEu1Ak>

KASICH'S 'THEORY' REMARK HIGHLIGHTS GOP NUANCE PROBLEM: John Kasich's climate change stumble over the weekend illustrates the difficulty some Republicans will face in outlining a nuanced position on the issue on the presidential campaign trail. The Ohio governor's reference to climate change as "some theory that's not proven" played into Democrats' efforts to frame the entire Republican Party as hostile to science and out-of-step with young, independent voters who are likely to decide the election next year. Kasich's campaign quickly downplayed the remarks, but it highlighted the balancing act for candidates struggling to gain traction with a GOP base that largely dismisses the problem. Darren Goode has the story: <http://politico.pro/1HCvnTk>

Faison - Comments acknowledge swing voters: Jay Faison, the Republican businessman who pledged \$175 million on a campaign to push for the GOP to address climate change, said Kasich's comments show that the party's candidates are starting to see climate change as an issue

to capture swing voters. "Whether it will make it easier or harder for us depends on how quickly the candidates can speak with confidence and clarity on the matter, which goes a long way when you're running for president," he told ME in a statement. "The sooner the better. So far, Jeb Bush and Lindsey Graham are the only ones that have managed to do it and it seems Kasich is testing out the waters. He certainly wouldn't take that risk if the polls didn't justify it."

ANIMAS RIVER TO REMAIN CLOSED THROUGH AUG. 17 AT LEAST: The Associated Press has the latest on the Animas River spill in Colorado: "Farmers, towns and tribes slammed water-intake gates shut as a sludge-laden plume from a Colorado mine spill rolled down principal rivers in the desert Southwest on Monday, prompting local officials and families to demand answers about possible long-term threats from heavy metals borne along by the spill. ... The EPA said stretches of the rivers would be closed for drinking water, recreation and other uses at least through Aug. 17." AP: <http://strib.mn/1DIVInL>

Smith wants details: House Science Chairman Lamar Smith (R-Texas) has joined the long line of local, state and federal officials demanding answers from EPA. "It is concerning that the agency charged with ensuring that the nation's waters are clean is reportedly responsible for the toxic water spill at Gold King Mine," he wrote in a letter demanding information from EPA. Read: <http://1.usa.gov/1J0xS7i>

KEYSTONE TO THEIR HEART: The National Nurses Union gave their Democratic primary endorsement to Sen. Bernie Sanders on Monday, shunning Hillary Clinton in part because of her lack of a stance on Keystone XL. It's unlikely that the choice portends future headaches among Washington environmental groups that have fought Keystone, though Friends of the Earth Action also cited the pipeline in giving its presidential nod to Sanders earlier this month. Sanders' longstanding opposition to Keystone underscores that "he understands the health impacts of climate change," a spokesman for the nurses' union told BuzzFeed: <http://bzfd.it/1KeGrYF>

YES, VIRGINIA, THERE IS A WAY FOR HILLARY TO WIN COAL COUNTRY: Sen. Tim Kaine (D-Va.) has some advice for how Hillary Clinton can sell states like his on climate action. Among other things, he tells Reuters to highlight how natural gas weakened coal, argue that the president should encourage the industry to innovate and explain that the U.S. can't get off coal completely in the short-term. <http://reut.rs/1PhCMhg>

I BELIEVE I CAN FLY: Put your seatbacks in the upright position for this one. EPA today will hold a public hearing on its proposed greenhouse gas endangerment finding for aircraft. There's not too much controversy around EPA's conclusion that aircraft emissions contribute to climate change. The real focus today will be on the second half of EPA's approach: Just how should the administration regulate emissions from aircraft given the global reach of the industry? The industry hopes the U.S. will stick to whatever goal the International Civil Aviation Organization lands on next year, while some environmentalists are pushing for the U.S. to take a more stringent glidepath. If you need a refresher, we explored these issues here: <http://politico.pro/1I7JUqW>

Cleared for takeoff: The hearing starts at 10 a.m. at EPA's HQ. Are you grounded outside the

Beltway? Folks not attending can dial a listen-only line at [Nonresponsive Conference Code] conference code [Nonresponsive Conference Code]. Comments on the proposal are due Aug. 31.

Meanwhile, in Big Sky Country: The Interior Department will hold its second listening session on the federal coal program today in Billings, Mont. This is the second of five sessions, following one last month at Interior's D.C. headquarters. Other meetings are Aug. 13 in Gillette, Wyo.; Aug. 18 in Denver; and Aug. 20 in Farmington, N.M.

But wait, there's more: Interior's Office of Surface Mining will kick off a series of public meetings on its proposed stream rule Sept. 1 in Denver. That's followed by events in Lexington, Ky.; St. Louis, Mo.; Pittsburgh, Pa.; Big Stone Gap, Va.; and Charleston, W.Va. Details via OSM: <http://1.usa.gov/1MYVBqY>

QUICK HITS

- Shell wants Interior's approval to drill deeper beneath the Chukchi Sea. Fuel Fix: <http://bit.ly/1Tn8SZt>
- California's consumer advocate will withdraw from a multi-billion dollar settlement over the San Onofre nuclear plant. Los Angeles Times: <http://lat.ms/1JSEy8b>
- A nuclear plant in southern Japan is the first to restart with new post-Fukushima safety requirements. AP: <http://bit.ly/1N5zyOt>
- Ikea will sell only LED bulbs. New York Times: <http://nyti.ms/1Mh5cYT>

THAT'S ALL FOR ME. Are we just gonna cover rock and roll? Or are we gonna cover the world?

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